In re Application of: Hibscher *et al.*   Examiner: J. Hotaling
Application No.: 09/741,564   Art Unit: 3713
Atty Docket No.: 03405.018001

REMARKS

By this Response, in the Present Application, Claims 14-23 and 29-32 have been

amended. Claims 1-13 have been previously cancelled. Thus, Claims 14-32 remain

pending in the Present Application.

In the outstanding Office Action, Claims 14-15, 17-18, 20-22, 24, 26, 29-30 and

32 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No.

6,102,796 to *Pajitnov*, in view of U.S. Patent No. 5,599,231 to *Hibino et al.*, and further

in view of U.S. Patent No. 6,117,061 to *Popat et al.* Further, Claims 16, 23 and 31 were

rejected under 35 U.S.C. 103(a) as being unpatentable over *Pajitnov*, in view of *Hibino*,

further in view of *Popat*, and further in view of U.S. Patent No. 6,386,543 to *Luker*.

Finally, Claims 19, 25 and 27-28 were rejected under 35 U.S.C. 103(a) as being

unpatentable over *Pajitnov*, in view of *Hibino*, further in view of *Popat*, and further in

view of Applicants' admissions of Prior Art.

It is well settled that a rejection under 35 U.S.C. § 103 requires some suggestion

or motivation to modify one or more cited references to arrive at each and every

element set forth in a claim under consideration. However, when considering

obviousness, it is impermissible to use hindsight, or the Applicant's disclosure, to

provide the necessary suggestion or motivation.

Applicants respectfully submit that the combination of the cited references neither

disclose nor suggest each and every limitation set forth in the Independent Claims at

issue. By way of example, none of the cited references, alone or in combination,

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disclose the claimed method for allowing a remote computer to create, edit and access an interactive computer game stored on a system computer via the Internet of Independent Claim 1, as amended, which comprises the steps of (1) accessing the system computer with the remote computer; (2) sending user data and game data from the remote computer to the system computer, wherein the remote computer is capable of editing both the user data and the game data; (3) applying design rules to the game data to dynamically generate an *interactive* computer game at the system computer; (4) storing the generated interactive computer game on the system computer; and (5) associating the generated interactive computer game with a user identifier for providing access to the generated interactive computer game to the remote computer; wherein the generated interactive computer game is capable of being played at the remote computer. Similarly, and for the same reasons, none of the cited references, alone or in combination, disclose the claimed method of Independent Claims 21 or 29, as amended.

Specifically, the Present Application discloses (and Independent Claims 1, 21 and 29, as amended, claim) an interactive computer game which can be created, edited and accessed by a remote computer. Support for the amendment proposed by this Response may be found throughout the Present Application and the Figures. *See, e.g.,* FIGS. 6A and 6B, and the discussion in the Specification corresponding thereto. In other words, in the Present Application, the game may be created in an interactive manner, with the user entering information (*e.g.,* a crossword puzzle answer) and the system computer inserting the information into the game in a piece-by-piece manner to create the game.

By contrast, the combination of *Pajitnov, Hibino* and *Popat* suggests that a user may edit and access a static, as opposed to an interactive, computer game. The combination does not contemplate the creation of an interactive computer game in the manner claimed by the Present Application. More specifically, in each of the cited references, individually, and also by the combination of the cited references, the generated computer game that is as a result of the user's edits is not interactively created in an interactive manner. As noted by the Examiner, the disclosure in *Pajitnov* does not teach the ability to create, edit or play games. *See* Office Action, Page 2. Regarding *Hibino*, in the Office Action, the Examiner contended that *Hibino* teaches configuring a game in an on-line network configuration. However, Applicants respectfully submit that the discussion of Figure 5 (the citation to which the Examiner indicates supports his contention) discusses only the editing of games in an on-line manner, as opposed to the interactive creating of games. In fact, as stated therein, the software containing the game "includes a portion of the video game designed by a manufacure which a user cannot change." *See, e.g., Hibino,* Col. 13, Lns. 38-41. Finally, in *Popat,* the user cannot create an interactive game; rather, the user can only customize a previously-created game. *See, e.g., Popat,* Col. 6, Lines 35-38.

By contrast, the Present Application contemplates the interactive creation and editing of a game, wherein the game is generated, or takes shape, as the user is creating and/or editing it. Therefore, as a result, the combination of the cited references does not provide for the creating, editing and accessing of an interactive computer game, as is required by Independent Claims 14, 21 and 29 of the Present Application.

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Further, the Present Application provides for the interactive computer game to be stored solely at the system computer. Again, support for this step can be found throughout the Present Application. By contrast, the combination of *Pajitnov, Hibino* and *Popat* suggests a situation in which a game, or a portion thereof, must be downloaded to the remote computer, or, as in the case of *Popat,* neither stored at the system or remote computers. As noted by the Examiner, the combination of the cited references contemplates the downloading, transferring or sending of game information to a remote computer. Thus, as a result, the combination of the cited references does not provide for an interactive computer game, to be stored at the system computer.

In sum, none of the aforementioned references individually, or in combination, describe a system or method for creating, editing and accessing an interactive computer game via the Internet, as required by Independent Claims 14, 21 and 29, as amended, of the Present Application. Axiomatically, the cited combination cannot render any Dependent Claims obvious.

Based on the foregoing Remarks, the Present Application is considered to be in condition for allowance. Such action on the part of the Examiner is respectfully requested. If the Examiner feels a telephonic conference would expedite the allowance of the Present Application, it is suggested the Examiner contact the undersigned Attorney.

It is further believed that an Extension Of Time Fee is due for filing this Response. The Office is authorized to charge this fee, as well as any deficiencies or refund any overpayments, to Deposit Account No. 502261.

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Respectfully submitted,

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Certificate of Transmission under 37 CFR § 1.8: The undersigned hereby certifies that this document is being transmitted to the Commissioner for Patents *via Facsimile at 703 872 9306*, this 8th Day of April, 2005.

By: _____
       Kelly A. Breese

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